

Palladium Music, Inc. v. Eat Sleep Music

398 F.3d 1193 (9th Cir. 2005)

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Plaintiff Palladium Music ("Palladium") appeals the district court's grant of summary judgment in favor of defendants Eat Sleep Music ("ESM") and Tennessee Production Center ("TPC") in a copyright infringement action brought pursuant to 17 U.S.C. 505. The court ultimately denied Palladium's appeal because their works were derivative works and its copyrights in the sound recordings were invalid.

Palladium is in the business of producing original master sound recordings of popular hit songs, commonly referred to as "karaoke music tracks." The songs are designed to allow consumers to sing along with their favorite artists. Palladium hires musicians and technicians to record music made popular by other artists. The recordings are meant to duplicate the sound and style of the original artist. The final recording is an original sound recording of a previously copyrighted song. Palladium sold its products to third-party manufacturers like TSM. It is undisputed that from 1996-1999, Palladium produced its sound recordings without licensing from the copyright owners of the underlying musical works. In 1999, Palladium launched its first retail line by offering its sound recordings directly to consumers through digital downloads and also began filing for copyrights for all the recordings produced since 1996. Palladium asked all its manufacturers to sign licensing agreements which restricted them from using the sound recordings over the internet and also prohibited them from sub-licensing to third parties. In November 2002, Palladium discovered that ESM was delivering Palladium's sound recordings through ESM's online digital delivery services. Palladium then brought this action against ESM and TPC for copyright infringement.

To establish copyright infringement, a plaintiff must prove ownership of a valid copyright and unauthorized copying of constituent elements of the work that are original. Defendants argued that Palladium did not own valid and enforceable copyrights in the sound recordings. The district court agreed with Defendants that the sound recordings were derivative works of the underlying musical compositions and that such works are only protected if there is a lawful use of the preexisting material. In order for Palladium to lawfully use preexisting, copyrighted musical works to create and sell its sound recordings, it must first secure the appropriate licensing from the copyright owners of those musical works. By failing to comply with those requirements, Palladium has illegally used the preexisting material. Thus, Palladium's copyrights were invalid and unenforceable.